HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 4709 of 2007

Between:

M/s Gayatri Projects Limited,
Hyderabad

... Petitioner

And

The Commercial Tax Officer,
Basheerbagh Circle, Hyderabad & another

... Respondents

:: O R D E R ::

Counsel for the petitioner : Shri S. Dwarakanath

Counsel for the respondents : Government Pleader for Commercial Taxes

July 30, 2007

Per G.S. Singhvi, CJ

In this petition, the petitioner has made the following substantive prayer:

> " For the reasons stated above, it is prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction –
>
> (a) striking down Section 33-A, Rule 44-AA and the Form XXIII prescribed for claiming refund under the Andhra Pradesh General Sales Tax Act, 1957 as unconstitutional being violative of Articles 14 and 300-A of the Constitution of India;
>
> (b) strike down Section 33-E in so far as it restricts grant of interest after expiry or 6 months from date of filing claim application, instead of after expiry of 6 months from date of

assessment order itself as irrational and violating Article 14 of Constitution of India; and Article 300 A of the Constitution.

(c) Consequently direct the 1st respondent to refund the amount of Rs.20,43,409/- due to the petitioner together with interest at 12% per annum from 17.06.2006 (six months from date of assessment order dated 17.12.2005) till date of payment by implementing the Form-C for the assessment year 2004-05 (APGST) and also award exemplary costs and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

At the hearing, Shri Dwarakanath, learned counsel for the petitioner invited our attention to the reply affidavit dated 25.06.2007 filed by his client and submitted that the Court may dispose of the writ petition by directing revisional authority, Deputy Commissioner, Commercial Taxes, Abids Division, Hyderabad to dispose of the suo motu revision within a specified time frame with liberty to his client to seek refund by availing appropriate legal remedy.

Learned Government Pleader for Commercial Taxes says that he does not have any objection.

In view of the above statements, we do not consider it necessary to adjudicate on the vires of Section 33-A of the Andhra Pradesh General Sales Tax Act, 1957 and Rule 44-AA read with Form XXIII of the Andhra Pradesh General Sales Tax Rules, but give a direction to the revisional authority to finalize the matter within a maximum period of six weeks from today. We also make it clear that if the petitioner feels aggrieved by the revisional order, then it shall be free to avail appropriate legal remedy.

The writ petition is disposed of in the manner indicated above.

As a sequel to disposal of the writ petition, W.P.M.P.No.16780 of 207 filed by the petitioner for expediting hearing of the writ petition is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 30, 2007
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